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OFFICE OF NATIONAL RECOVERY ADMINISTRATION

DIVISION OF REVIEW

PART A: INTRODUCTION

1. FOREWORD LISTING THE LABOR STUDIES AND PARTICULARLY THOSE IN WORK MATERIALS NO. 45

2. LIMITS OF COVERAGE OF LABOR IN INDUSTRIES CLOSELY ALLIED TO AGRICULTURE UNDER CODES OF FAIR COMPETITION UNDER NIRA

WORK MATERIALS NO. 45
THE LABOR PROGRAM UNDER THE NIRA

Work Materials No. 45 falls into the following parts:

Part A: Introduction
Part B: Control of Hours and Reemployment
Part C: Control of Wages
Part D: Control of Other Conditions of Employment
Part E: Section 7(a) of the Recovery Act

LABOR STUDIES SECTION
MARCH, 1936

OFFICE OF NATIONAL RECOVERY ADMINISTRATION

DIVISION OF REVIEW

FOREWORD LISTING THE LABOR STUDIES AND PARTICULARLY THOSE IN WORK MATERIALS NO. 45

LABOR STUDIES SECTION
MARCH, 1936

9850

F O R E W O R D

This foreword introduces all of the sections of Work Materials No. 45, The Labor Program Under the NIRA.

In order to make possible the mimeographing of the various sections of Work Materials No. 45 it was necessary to send to the mimeographer each section at the time it was completed by its author. The limitations of time and personnel necessarily caused this program to be carried out in a somewhat disjointed manner. It is, accordingly, appropriate to set forth in this foreword the entire schedule of the studies which appear in Work Materials No. 45. This schedule appears on the following page.

In addition to the various studies in Work Materials No. 45 a considerable number of other studies deal with various aspects of labor. The following Work Materials are particularly worthy of listing in this connection:

Work Materials

3 Financial and Labor Data on the Women's Neckwear and Scarf Industry
4 Report of Committee on Economic and Social Implications of the Company Store and Scrip System
5 Report of the Special Commission of Wage Differentials in the Cap and Cloth Hat Industry
6 Report of Special Commission on Wages and Hours in the Fur Manufacturing Industry
7 Statistical Background of NRA
8 National Labor Income By Months -- 1929-1935
9 Wages and Hours in American Industry--NRA Source Material
10 Report of Commission for Coat and Suit Industry
12 Employment, Payrolls, Hours and Wages in 115 Selected Code Industries
15 Production, Prices, Employment and Payrolls in Industry, Agriculture and Railway Transportation, Jan. 1923, to date
30 Substitutions in Connection with the President's Reemployment Agreement
35(b) Labor Provisions in Codes
40 Prison Labor Problem Under NRA and the Prison Compact
45 Legal Aspects of Labor Problems -- Minimum Wages
47 Data on Average Weekly and Average Hourly Earnings in Selected Manufacturing Industries By States - 1933-35
59 Sheltered Workshops Under NRA
61 A Study of Wholesale Trades Under NRA
82 The President's Reemployment Agreement
83 An Analysis of the PRA Census
86 Digest of Child Labor Laws of the States

At the back of this report will be found a brief statement of the studies undertaken by the Division of Review.

L. C. Marshall
March 28, 1936 Director, Division of Review

Work Materials No. 45

THE LABOR PROGRAM UNDER THE NIRA

C O N T E N T S

PART A. INTRODUCTION

1. Limits of Coverage of Labor in Industries Closely Allied to Agriculture Under Codes of Fair Competition under NIRA

PART B. CONTROL OF HOURS AND REEMPLOYMENT

1. NRA Policies, Standards and Code Provisions on the Basic Weekly Hours of Work

2. Employment and Unemployment -- 1929-1935

PART C. CONTROL OF WAGES

1. Introduction and Minimum Wage Policy

2. Policy on Wages Below the Minimum

3. Policy on Wages Above the Minimum under the NIRA

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5. Migration of Selected Industries as Influenced by Area Wage Differentials in the Codes of Fair Competition
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1. Child Labor Control under NRA

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OFFICE OF NATIONAL RECOVERY ADMINISTRATION

DIVISION OF REVIEW

LIMITS OF COVERAGE OF LABOR IN INDUSTRIES CLOSELY ALLIED TO AGRICULTURE UNDER CODES OF FAIR COMPETITION UNDER NIRA

By

Robert M. Woodbury

LABOR STUDIES SECTION
March, 1936

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SUMMARY

Agricultural labor was exempted from the NRA, although farmers who complied with the requirements were entitled to be allowed to display the Blue Eagle.

Labor engaged in agricultural production was outside the scope of the NRA, since under the law as enacted by Congress, agricultural production appeared to be exempted from NRA jurisdiction.

The writing of labor provisions for industries engaged in processing of agricultural products--principally food products--was subject to special delays and vicissitudes arising from conflicts in policy and interest between NRA and AAA in drafting codes for this industry group. In accordance with a special provision of NIRA, all the industries engaged in processing of agricultural products were transferred, for code purposes, late in June, 1933, to the Secretary of Agriculture, except that the NRA retained jurisdiction over the labor provisions for all these codes. Very few codes for these industries had been approved by the end of 1933. On January 8, 1934, the major group of Food Industries--all subsequent to first processing--were transferred back to NRA. A second group was left under the Secretary's jurisdiction as before, and a third group was placed under NRA, subject, however, to the jurisdiction of the Secretary with respect to certain questions, such as price and production control, in which the Secretary of Agriculture had a direct interest. After this reallocation of the codes, codification proceeded more rapidly.

A definition of agricultural labor was agreed to by the NRA and the AAA. The definition had the effect of encouraging a disinclination among industries employing labor of the same general type as agricultural labor to present codes, and caused difficulties in a number of cases where enterprises employing labor of this class proceeded upon the assumption that such labor was not industrial.

Each industry had to define its coverage in such a way as to be in accord with the act and to give a fair definition within the limits of which the sponsoring body must be "truly representative". No code definition was approved which specifically excluded agricultural labor. Definitions were commonly drawn in such terms that all operations which might be classed as agricultural were excluded. In all cases of industries the codes of which were under joint jurisdiction of both the NRA and the AAA, the definitions had to satisfy both administrations. In many cases the industries raised no objection to having all their labor, included under the terms of the codes.

The net result, in general, was to leave in agricultural production a fringe of varying coverage in the border zone. Some industries were reluctant to seek codes when the conditions of codification were learned. Some industries could secure no adequate representation over the near-agricultural operations. Other industries raised no objections to having their labor working under NRA code provisions.

I. INTRODUCTION

A. The Problem

The coverage of labor under NIRA Codes of Fair Competition can be viewed as one of the principal proximate objectives of the program of industrial recovery. Codification of industry with restriction of hours was a major means of providing reemployment for the millions out of work. A review of the program in terms of the coverage of labor,--the passive beneficiary of the industrial recovery program,--shows its limitations and shortcomings in failure to provide protection to labor, which is an important aspect to be considered in an appraisal of the program as a whole.

Whether or not workers employed in industry were protected by labor provisions entitling them, if employed, to receive at least a minimum rate of wages, to work not more than a maximum number of hours, and to enjoy the benefits of any of the so-called safeguarding provisions depended in first instance upon whether the industry was under a code of fair competition, or, in case of the so-called blanket code, upon whether the individual employer signed the PRA or a substitution approved for his industry. Within the codified industry, coverage of labor was dependent, furthermore, upon definition of the industry and upon the special exemptions of the code.

B. Limits of Present Report

The present report is limited to a small section of the whole field, namely, the field of the industries and trades handling and processing agricultural products and in agriculture itself. In this field, the problem of the coverage of labor differed from that in industry generally, first because agriculture itself was apparently not included in the scope of the NIRA, and secondly because of the conflicts between NRA and AAA in their policies affecting the codification of these industries in the borderland zone. Within this general field, the present study is further restricted to the special problems presented by the delimitation of the borderline between agriculture and industries handling and processing agricultural products and in particular to the definition of agricultural labor.

C. Features of the NIRA Important for this Problem.

The NIRA provided a plan for the recovery of industry. Its objective was stated in terms of industries and trades rather than in terms of protection of labor in specific occupations. The plan provided in essence for the voluntary presentation of codes by industries; the codes contained minimum wage rates, maximum hours, and safeguarding provisions for the protection of labor, as well as the required clauses of Section 7(a). Whether or not workers came within the scope of these benefits obviously depended in first instance upon whether the industries employing them were codified. (*) A second important point is that the code for an industry was required to be

(*) Though the Act included provisions for imposition of codes upon industries (Section 3(d)) and for imposition of codes of labor provisions after investigation (Section 7(c)), no codes were imposed upon industry.

submitted by a truly representative group. Industries which were opposed to being codified did not present codes. The term industry was interpreted as meaning the employers. A third feature of the NIRA which should be mentioned, was the safeguards for the interests of farmers. These were of two types. One clause provided that nothing in the NIRA should prevent a farmer from marketing or trading the produce of his own farm. (*) Another provision authorized transfer of industries in the borderland zone between agriculture and industry to the Secretary of Agriculture for purposes of code formation and administration in order to avoid conflicts of policy between NRA and AAA on matters in which the farmer had an interest. These features are discussed in detail in the report. They are mentioned here merely to call attention to the concern for the farmer interests on the part of Congress.

D. Features of the AAAct Important for this Problem.

The Agricultural Adjustment Act, enacted in the same period as the NIRA, was intended to promote the interests of farmers, in particular to bring about a raising of purchasing power of farmers relative to the purchasing power of industrial units. The means were by restriction of production and raising of prices of agricultural commodities relatively to others, subject, however, to measures for protecting consumers from too high prices of agricultural products. The AAAct itself did not mention farm labor. The Agricultural Adjustment Administration, the organization subject to the Secretary of Agriculture to which the carrying out of the Act was entrusted, took the position that the interests of agricultural workers would be amply safeguarded as a consequence of the benefits to be enjoyed by the farmers who employed them. A final point should be noted is that in the delegation of power under the NIRA to the Secretary of Agriculture for purposes of formation and administration of codes, the authority which the Secretary of Agriculture and the AAA exercised for these purposes was derived wholly from the NIRA. The purpose of the transfer was to harmonize policies and to protect the interests of farmers in developing and administering codes for industries in which farmers and agricultural interests were concerned.

II. AGRICULTURE AND AGRICULTURAL PRODUCTION.

The NIRA, as its name implies, was intended to promote industrial recovery. The interests of farmers were taken care of under the Agricultural Adjustment Act, passed by Congress during the same period. The conclusion seems reasonable that Congress did not intend that codes of fair competition under the NIRA be set up for farmers or persons engaged in agricultural production. (**) That no such codes could be set up under the requirement that

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(*) Section 5.

(**) In this connection it is of interest that the Bureau of Agricultural Economics drafted a code to be applicable to agriculture and agricultural labor; at the same time it recommended that no such code be adopted. Also the legal division of the AAA held that a code covering farm labor was authorized under the Recovery Act. No such Code was submitted by any group of farmers to place their labor under code provisions.

the sponsoring body should be truly representative is obvious. A corollary equally clear is that labor employed in agriculture or in agricultural production could expect no protection under codes applicable to agriculture: no such codes were ever submitted.

The workers thus for all practical purposes excluded from the scope of the industrial recovery program comprised all the farm laborers who worked for farmers and farm operators, numbering, at the census of 1930, nearly two and three-fourths millions (2,733,000). (*) In addition to these, all the tenants, half a million cash tenants (489,000), and over two million other tenants, share croppers, etc. (2,175,000), (**) were excluded from the benefits of the recovery program, except that in the crop reduction program an attempt was made to insure that the share croppers should receive part of the benefit accruing on account of crops, principally cotton, which were plowed under.

The group of farm laborers is substantially unorganized. Farmers as a class are opposed to any form of labor organization. Attempts of the I.W.W. in the past to organize the migratory harvest hands have helped to give farmers a distaste for unionization of farm labor, a sentiment which deepened into hostility because of the tactics of the I.W.W. group in pulling strikes at critical times during the harvest season. (***). As a result perhaps of this negligible unionization, the specific problems of agricultural laborers received little consideration in Congress in the framing of the NIRA and the AAA.

III. AGRICULTURAL LABOR UNDER THE PRA.

The terms of the PRA, which was authorized by Section 4(d) of the NIRA, were obviously not designed to apply to agricultural labor. (****).

(*) Fifteenth Census of the United States: 1930, Population, Vol. V, Occupations, p. 40

(**) Fifteenth Census of the United States: 1930, Agricultural Vol. II, Part I, pp. 36-37

(***) For a discussion of unionization among farm laborers, see Folsom, Josiah C., Farm Laborers in United States Turn to Collective Action, Yearbook of Agriculture, 1935, U. S. Department of Agriculture, pp. 180-181, p. 190.

(****) The occupations listed in paragraph (2) comprise "accounting, clerical, banking, office, service, or sales employee (except outside salesmen) in any store, office, department, establishment, or public utility, or on any automotive or horse-drawn passenger, express, delivery, or freight services, or in any other place or manner,... and in paragraph (3), "factory or mechanical worker or artisan". Also, the limitation of hours to 40 in any one week would represent a radical departure from farm practice.

This was made clear in Interpretation No. 6, issued in Bulletin #4 which states:

> "The following groups of employment are not intended to be covered by the PRA...agricultural labor."

However, in Explanation No. 2, included in the same Bulletin, the right of farmers to the Blue Eagle is confirmed provided they comply with the terms of the Agreement. (*) With respect to Agriculture, no PRA substitution was issued. (**)

(*) PRA Bulletin No. 4. What the Blue Eagle Means to You and How You Can Get It, pp. 18, 21.

(**) Substitutions were not issued unless a code had first been presented by the industry

IV. BORDERLINE INDUSTRIES

It is necessary at this point to outlin the special arrangements for codification of th industri s in th zone bordering upon agriculture.

A. Delegation of Pow rs to S cretary of Agricultur .

With respect to th trades and industri s ngaged in handling oror processing of agricultural commoditi s or products, the NIRA provided that, in order to avoid possibility of friction and of conflict over policies arising between the NRA and the AAA, the pow rs and functions of the President in carrying out the NIRA as applied to these trades and industries might be delegated to the Secretary of Agricultur .(*) Pursuant to this authority, the President, by Executive Order dated June 26, 1933,(**) delegated to th Secretary of Agriculture all these powers and functions with th important xception of those relating to labor provisions, with r spect to these industries.

Th industri s were defined in Executiv Ord r #6182, June 26, 1933,(***) as those "engaged principally in th handling of milk and its products, tobacco and its products, and all foods and foodstuffs". The industries are specified in mor detail in Executive

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(*) Section 8(b). The President may, in his discretion, in order to avoid conflicts in th administration of the Agricultural Adjustment Act and this title, delegate any of his functions and pow rs under this title with respect to trades, industries, or subdivisions thereof which are engaged in the handling of any agricultural commodity or product thereof, or of any competing commodity or product thereof, to the Secretary of Agricultur ."

(**) Executiv Ord r #6182, Jun 26, 1933.

(***) "Purusant to the authority vested in me by Title I of the National Industrial Recovery Act, approved June 16, 1933, I hereby delegate to the Secretary of Agricultur all the functions and powers (other than the determination and administration of provisions relating to hours of labor, rates of pay, and oth r conditions of employm nt) vested in me by said Title I of said Act with respect to trades, industries or subdivisions thereof engaged principally in the handling of mild and its products, tobacco and its products, and all foods and foodstuffs, subject to the requirements of Title I of said Act, but reserving to me the power to approve or disapprove of the provisions of any code of fair competition entered in accordanc with Title I of said Act. This Order is to remain in effect until revoked by me."

Order 6345, dated October 20, 1933.(*) This order also provided that in case of disagreement over whether an industry was subject for purposes of codification to the Secretary of Agriculture, the controversy might by settled by agreement between the heads of the NRA and the AAA, or, failing such agreement, by the President.

(*) Executive Order 6345 of October 20, 1933 stated in part: "...Executive Order No. 6182 of June 26, 1933,...is hereby amended so that, in addition to the trades, industries, or subdivisions thereof therein enumerated, there shall be included the following trades, industries, or subdivisions thereof:

1. Industries, trades, or subdivisions thereof (including agricultural produce and commodity exchanges and similar organizations) engaged principally in the handling of any of the following:

(a) Agricultural commodities (including livestock, poultry, fur-bearing animals and bees, and flowers and nursery stock, but excluding forest products other than nuts, fruits, sap, gum, and oils) up to the point of first processing off the farm, including all distribution, cleaning, or sorting ginning, threshing, or other separation, or grading, or canning, preserving, or packing, of such commodities occuring prior to such first processing.

(b) Human and animal food (including beverages, confectionery, and condiments) and all substances or preparations used for food or entering principally into the composition of food.

(c) Nonfood products of grains; inedible animal and vegetable oils and fats; naval stores; feathers, hides, and furs; brooms; or hog-cholera serum.

2. Industries, trades, or subdivisions thereof, engaged principally in the crushing of cotton seed or flax seed.

If a question should arise as to whether or not any specific trade, industry, or subdivision thereof is or is not within the terms of Executive Order #6182 (as supplemented by Executive Order #6207) and/or this order, the question shall be finally and condlusively determined by agreement between the Secretary of Agriculture and the Administrator of the National Recovery Administration; or, if they do not agree, then the question shall be submitted to the President, whose decision thereon shall be final and conclusive.

This order shall not apply with respect to any trade, industry or subdivision thereof for which a code of fair competition has heretofore been approved by me except as may hereafter be otherwise determined by agreement between the Secretary of Agriculture and the National Recovery Administrator..."

Between the issuance of Executive Order #6182 and January 6, 1934 but six codes (*) were approved for the industries falling within the jurisdiction of the Agricultural Adjustment Administration. During the same period 196 Codes were approved under the National Recovery Administration. The Agricultural Adjustment Administration had a mandate to promote and protect the interests of farmers; among other policies the Agricultural Adjustment Administration sought:

> (1) protection of consumers and farmers, if necessary, by regulation of industry which included permission to scrutinize books and records; (2) elimination of groups of workers who might be termed agricultural, from the scope of codes; (3) elimination of industries from NRA codes which might be deemed to fall within the scope of agricultural production.(**)

Industries which sought codes refused to agree to Agricultural Adjustment Administration's stipulations with respect to reports and availability of records. As a result, codification, including that of labor provisions, in these industries was checked.

B. Reallocation of Industries

Pressure by the industries which desired codes led to issuance of Executive Order #6551 (***) of January, 1934, which transferred back

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(*) These were:

Beet Sugar (Manufacturing)	LP-1	October 3, 1933
Date Packing	#490	November 11, 1933
Southern Rice Milling	LP-5	November 21, 1933
Commercial Breeder & Hatchery	LP-6	December 27, 1933
Retial Food & Grocery	#182	December 30, 1933
Wholesale Food & Grocery	#196	January 4, 1934

(**) Cf. Agricultural Adjustment Act. Title I. Sections 1 & 2. Public No. 10, 73rd Cong. 48 Stat. 31. (1933) The AAA insisted upon the inclusion of a clause which would permit access to the books and records of any employer subject to a joint code by the Secretary of Agriculture or his agents.

(***) Executive Order #6551 of January 8, 1934 stated in part: "...All the functions and powers heretofore delegated by said Executive Orders to the Secretary of Agriculture are hereby transferred and delegated to the Administrator of the National Recovery Administration excepting only as follows:

1. The functions and powers transferred and delegated insofar as they relate to industries, trades, or subdivisions thereof which are engaged principally in the handling, pro-

(Footnote continued)

Footnote continued. . .

(***) cessing, or storing of agricultural commodities, principally domestic, up to and including the point of first processing. and the subsequent sale or disposition by the first processor, (hereafter for convenience referred to as 'first processors') shall not, without the written approval of the Secretary of Agriculture, be exercised through the fixation or control of --

(1) Prices in connection with the purchase of agricultural commodities from producers and the subsequent sale or disposition by first processors of the first processed articles.

(2) Brokerage fees involved in the purchase of agricultural commodities from producers and the subsequent sale or disposition by first processors of the first processed articles.

(3) Credits and financial charges with reference to agricultural products.

(4) Commission rates in connection with the purchase of agricultural commodities from producers and the subsequent sale or disposition by first processors of the first processed articles.

(5) Purchasing arrangements with regard to agricultural commodities in their original form.

(6) Marketing quotas in connection with the purchase of agricultural commodities from producers and the subsequent sale or disposition by first processors of the first processed articles.

(7) Plant capacity and/or its allocation.

This limitation upon the functions and powers transferred and delegated is established in order that such subject matters may be dealt with by the Secretary of Agriculture under Section 8 (2) and /or (3) of the Agricultural Adjustment Act without conflicting with the exercise of such functions and powers by the Administrator of National Recovery Administration.

The industries and trades or subdivisions thereof covered by this Section I of this Order are limited to (a) those listed in Exhibit A hereto attached and hereby made a part hereof and (b) such other first processors as have not heretofore filed codes pursuant to the National Industrial Recovery Act.

II. The functions and powers transferred and delegated shall not include those relating to the following industries, trades and subdivisions thereof, but such functions and powers with respect thereto shall continue to be delegated to the Secretary of Agriculture pursuant to and in the manner set forth in Executive Order no. 6182, as supplemented by Executive Order No. 6207, and 6345:

1. Commodity exchanges.

2. Industries, trades and subdivisions thereof

(Footnote continued)

in question subsequent to first processing. In these industries code

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Footnote continued.

(***) engaged principally in the handling, processing or storing of --

(a) Milk and its products, but excepting packaged pasteurized, blended, and/or processed cheese.
(b) Oleomargarine and vegetable oils, but excepting soya bean oil.
(c) Cotton and cotton seed and their products, including ginning, cottonseed crushing, cottonseed oil refining (excluding the manufacture of textiles and processing and handling subsequent thereto.)

3. Industries, trades, and subdivision thereof engaged principally in the handling, processing or storing up to the point of first processing and the subsequent sale and disposition by such processors of--

(a) Livestock and its products.
(b) Wheat, corn, rice, and other grains, self-rising flours, cake flours, and like products sold in grocery store sizes, and grocery store products of corn.
(c) Sugar and its by-products
(d) Anticholera hog serum and virus.
(e) Naval stores.
(f) Tobacco and its products.

4. Fresh fruits and vegetables and poultry and poultry products up to and including handling in wholesale markets and the subsequent sale and disposition by such handlers in wholesale markets.

Provided, however, that the functions and powers referred to in this section II shall be so exercised as to harmonize with the exercise of similar functions and powers with respect to other codes approved by the Administrator of the National Recovery Administration; but any functions and powers reserved to the Secretary of Agriculture by this section II so far as they relate to industries, trades or subdivisions thereof which are engaged principally in the handling, processing, or storing of agricultural commodities up to and including the point of first processing and the subsequent sale or distribution by the first processor, shall not, unless the Secretary of Agriculture otherwise decides, include or affect the subject matters referred to in subclauses (1), (2), (3), (4), (5) (6), or (7) of Section I of this Order.

(Footnote continued)

formulation and determination of labor provisions went forward. The Secretary of Agriculture had no further jurisdiction over them or their labor.

The remaining industries were divided into two groups. One group of industries principally engaged in handling, processing, and storing agricultural commodities up to and including the point of first processing were transferred back to National Recovery Administration with the proviso that approval by the Secretary of Agriculture was required for provisions relating to a series of specific questions, including price, production control, brokerage fees, market quotas, etc. A second group of industries was left unchanged as to jurisdiction, with the Secretary of Agriculture in charge of all except the labor provisions, which latter were in the charge of the National Recovery Administration. A list of the industries in each group was given in Exhibit A in the Executive Order, and a provision for settlement of disputed fields by agreement between the Secretary of Agriculture and the Administrator of the National Recovery Administration was also included in the order.

C. The Problem of Agricultural Labor.

The industries included in the first group were, with the exception of the Florist and Seed concerns, for the most part not concerned with the problem of agricultural labor. There were seventeen

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Footnote continued

(***) III. If a question should arise as to whether or not any specific trade, industry, or subdivision thereof is, or is not, within any of the terms of provisions of this Order, the question shall be finally and conclusively determined by written agreement between the Secretary of Agriculture and the Administrator of the National Recovery Administration; or, if they do not agree, then the question shall be submitted to the President, whose decision thereon shall be final and conclusive....."

industries enumerated in this group; of these, seven became wholly or partly codified. (*)

The industries of the second group, on the other hand, included a number of cases where the problem of agricultural labor was important. These included among others the Egg and Poultry, Fresh Fruit and Vegetable and Refrigerated Warehousing Industries, Meat Packing, Stockyard Operators and Livestock Marketing Agencies and other industries approached the issue at certain points, for example, as to their employees handling livestock. Many industries even in this group, did not appear to touch the question of agricultural labor. (**) Besides these, and not listed as belonging in either category, were industries which claimed to be outside the jurisdiction of National Recovery Administration entirely as engaged solely in agricultural production or employing solely agricultural workers. In this category, for example, was the Citrus Growing and Packing Industry. Cotton Ginning was not listed in either group. (***)

(*) The list of industries in Exhibit A of the Executive Order #6551, of January 8, 1934, is as follows: Where a code for the industry was approved it is given below in the column parallel with the list of industries.

Industry	Code
Beans - (Dried) Shippers	
Broom Manufacturing	Broom Manufacturing #465
Canners	Canning #446
Feed - Retail	
Florists	
Hides and Skins Dealers	
Peanuts - Millers	Raw Peanut Milling #203
Pecan Distributors	
Pecan Shellers	Pecan Shelling #528
Pickle Packing	Pickle Packing #524
Pop Corn Manufacturing	
Potato Chip Manufacturing	
Preserves	Preserves, Maraschino Cherry & Glace Fruit #460
Rendering	
Seed Producers and Shippers	Seed Trade #547
Soy Bean Oil Manufacturing	
Vinegar Manufacturing	

(**) and (***) continued on next page.

(**) and (***) Footnotes continued from previous page.

(**) As to codes already filed, the following industries were listed in this group in the Executive Order #3581:

Anticholera hog serum	Anti-Hog Cholera Serum & Hog Cholera Virus Industry LP-7
Corn Miller	
Corn Products	
Cheese	
Cotton Exchange -- New York	
Cotton Exchange - New Orleans	
Cotton Traders	
Cottonseed Crushing	
Cottonseed Oil Refining	
Egg and Poultry	New York Live Poultry LP-12
Feed, Hay and Straw Distributors	
Feed Manufacturers	Feed Manufacturing LP-16
Fruits and Vegetables - Fresh	Wholesale Fresh Fruits and Vegetables LP-18
Grain-Country Elevators	Country Grain Elevators LP-19
Grain Exchanges	Grain Exchanges LP-17
Grain-Flour Milling	Wheat Flour Milling LP-17
Grain-Terminal Elevators	Grain Exchanges LP-8 (inc. Terminal Grain elevators)
Hog Exchanges	
Linseed Oil	Linseed Oil LP-11
Livestock Marketing Agency Industry	
Malsters	Malt Industry LP-22
Oleomargarine	
Poultry Breeders	Commercial Breeder Hatchery LP-6
Rice	Southern Rice Milling LP-5
Stockyard Operators	
Sugar Exchanges	
Sugar (Beet) Producing	Beet Sugar LP-1
Sugar Refining	
Tobacco, Cigar Manufacturing	Cigar Manufacturing * #467
Tobacco Leaf Dealers	
Warehouse, Cotton	
Warehouse, Refrigerated	Refrigerated Warehousing * #499
Warehouse, Rice	
Warehouse, Tobacco	Auction and Loose Leaf Tobacco Warehousing LP-18
Warehouse, Wool and Mohair	

The following list (not necessarily exhaustive) is of industries in this group for which no codes had been filed at the time of the Executive Order, (January 8, 1934):

Footnotes (**) and (***) continued on next page.

With regard to the six codes approved prior to January 6, 1934, none of them with the possible exception of the Commercial Breeder and Hatchery Code toudhed the problem of agricultural labor. This code restricted the industry to the "busines of hatching and/or selling on a commercial scale, "Chicks" or "started chicks", "baby ducklings" or "turkey poults" hatched for sale," and included within its scope every employee of any individual or corporation engaged in the business as so defined. No question of exclusion of so-called agricultural labor was raised by the industry.

Footnotes (**) and (***) continued.

Butter	
Cigarette Manufacturers	Cigarette, Snuff, Chewing Smoking Tobacco * #549
Ice Cream	
Milk, Fluid	
Milk, Evaporated	
Meat Packers	
Naval Stores	

* Transferred to NRA

(***) The so-called labor provisions codes included a number in the Brewing and Distillery group, which were considered as belonging to the group of reserved codes, as follows:

Distilled Spirits	LP-9
Brewing	LP-10
Distilled Spirits Rectifying	LP-13
Alcoholic Beverage Wholesaling	LP-15
Alcoholic Beverage Importing	LP-20
Wine Industry	LP-21

The administration of these codes was transferred to the Federal Alcohol Control Administration.

D. Unions in Borderline Industries

These industries were for the most part not unionized. However, this group of industries included many which were industrial in character, and as their labor was drawn from towns and cities, the opportunity for organization increased. In citrus packing, there were strong local unions. The canning factories had locally organized groups. In some industries labor was partly organized; in some, rival unions disputed the field, as in the Chicago stockyards. As a whole, however, the few existing unions in these industries were weak and localized; and labor had no strength to press its demands or make its position felt in the controversies over codification policies, (*) except through the Labor Advisory Board of the NRA.

V. DETERMINATION OF THE LIMITS OF NRA JURISDICTION OVER LABOR IN BORDERLINE INDUSTRIES.

In the determination of the limits of coverage of labor in industries bordering upon agriculture and agricultural production, two lines of development must be traced. In the first place, the AAA sought to exclude all agricultural labor from the scope of NRA codes. In the second place, each approved code contained a definition of its industry. This definition had to conform to the industry of which the group sponsoring the code was representative, and of course, had to comply with the limitations of the NIRA itself. To conform with the NIRA, it had to exclude agricultural production. In case of all the joint codes, and for practical purposes in case of all the reserved codes, part of the provisions of which required the approval of the Secretary of Agriculture, the definition had to meet the approval of both the AAA and the NRA.

A. Definition of Agricultural Labor

In the following discussion the history of the controversy over the definition of agricultural labor is sketched from its origin through the stages of code negotiation and administration.

The question of jurisdiction over agricultural labor was first presented to the NRA and the Labor Advisory Board in August of 1933. The citrus fruit growers and packers of Florida wished to know whether they would be subject to whatever code the NRA might approve for the Fruit and Vegetable Industry or whether the Citrus Industry itself was expected to submit a code. They urged that the labor they employed did not come within the jurisdiction of the NRA, on the ground that it was "agricultural labor". A brief description of the industry will help to clarify the issues. (**)

(*) Cf. Folsom, Josiah, C., Farm Laborers in United States Turn to Collective Action, in Yearbook of Agriculture, 1935, p.190.

(**) For description of the Industry, see Report of the Inter-departmental Committee Appointed to Investigate Labor Conditions in the Florida Citrus Industry. Appendix E.

These citrus growers operated large farms or groves where oranges, grapefruit, limes and lemons were the principal crops. (*) The regular staff, or grove labor, was engaged in such tasks as plowing, hoeing, fertilizing, pruning and spraying. The workers for the most part were not given maintenance. They lived in towns and were transported to their work in the groves. Though the work was of the traditional farm type the labor market from which the employees were drawn had the general characteristics of that for industrial workers.

During harvesting season the cutting or picking of the crops was performed by "pickers", who in most cases were employed by packing houses. They reported for work to the packing houses and were transported to the groves, moving from place to place as the work required and at the direction of their employers. They were paid piece rates. They, too, lived in the towns and were hired in the ordinary labor market.

At the packing houses, situated for the most part in the towns, labor was employed to clean, grade and pack the fruit ready for shipment. These were factory operations, often performed with the aid of conveyor belts and other mechanical equipment. The packing operation was not "agricultural production" but clearly fell within the limits of "handling an agricultural commodity".

The citrus packing houses wished to have all the labor, including the packing house labor, declared "agricultural" and exempted from the scope of the National Recovery Administration labor codes. Had a considerable proportion of the crop been cleaned, graded and picked in the groves by employees of the grove owners, the work would doubtless have been classed as a part of the ordinary farm operations in "preparing perishable agricultural commodities for market in original perishable fresh form" (**) Actually, the operations of picking as well as those of packing were performed by employees of the packing houses. These establishments were usually under different ownership from that of the groves, and their function of handling was clearly distinguishable from the process of growing the fruit.

The NRA tended to cover all wage earners in all codified industries and in all establishments operating under the NRA, save only those specifically exempted. Accordingly, if the Citrus Packing Industry was subject to a code, all employees of this industry were subject to the labor provisions unless they were exempted by the terms of the code. But the Citrus Packing Industry, of course, was not required, except from the pressure of public opinion, to apply for a code, and in that event, the labor employed in that industry would not enjoy the benefits of coverage. So far as concerned the type of labor involved, the work appeared to partake of the character of industrial rather than of agricultural labor.

(*) For description of the Industry, see Report of the Interdepartmental Committee Appointed to Investigate Labor Conditions in the Florida Citrus Industry. Appendix B.

(**) Language contained in the so-called original definition, see next page.

The AAA had no mandate to raise labor standards. (*) In fact, its focus upon the farmers' problems and interest in reducing his costs at times led to policies that seemed contrary to the labor objectives of the National Recovery Administration. Since the Agricultural Adjustment Administration had received from the President delegation of his powers and functions over the food industries, except for provisions concerned with labor, it sought to adjust conflicting interests through definition of agricultural labor. The definition, drafted by the Chairman of the Labor Advisory Board, (**) of the National Recovery Administration, read as follows:

> "Agricultural workers are all those employed by farmers on the farm when they are engaged in growing and preparing for sale the products of the soil and/or livestock; also, all labor used in growing and preparing perishable agricultural commodities for market in original perishable fresh form. When workers are employed in processing farm products or preparing them for market, beyond the stage customarily performed within the area of production, such workers are not to be deemed agricultural workers." (***)

Though this definition was signed by members of both Administrations, no Executive or Administrative Order appears to have been issued granting exemption to agricultural labor. Though the definition was thus drawn up and approved, the purpose seems never to have been carried out by formal action. (****)

(*) Farm labor is nowhere mentioned in the Agricultural Adjustment Act. The Agricultural Adjustment Administration took the view that farm labor would benefit as a result of the benefits received by farmers.

(**) Dr. Leo Wolman. The definition was approved by Charles Brand, Co-Administrator of the Agricultural Adjustment Administration, and Wayne C. Taylor, Executive Assistant to Co-Administrator George Peek.

(***) Release #401, August 19, 1933.

(****) Under the terms of the Executive Order No. 6345, dated October 20, 1933, on questions of "whether or not any specific trade, industry, or subdivision thereof", were or were not within the scope of the delegation to the Secretary of Agriculture, agreement between the Secretary and the Administrator would determine the point. But this order had not been issued when the definition was agreed upon. Further, it was an agreement not as to industries to be covered, but as to an occupational class. The fact of the agreement, however, may have hindered the NRA from attempting to set it aside.

Nevertheless, in many quarters the definition appears to have been accepted as establishing the line of demarkation between industrial and agricultural labor. The citrus growers immediately interpreted it as meaning that they were not expected to present an NRA code. The Labor Advisory Board staff regared the definition as of sufficient importance to warrant issuance of a revision. The Industrial Appeals Board in an opinion on the Tovrea Case (*) passed on the question of whether the employees concerned were or were not within the definition as thus promulgated. (**) The NRA itself appears to have, in part, regarded the existence of the definition as an obstacle to the coverage of workers who might under it be termed agricultural. On the other hand, when it came to incorporating the definition of agricultural worker in the codes as a class exempt by the statute, the NRA Legal Division objected. Also, the attempt of particular establishments to avoid paying minimum code rates on the ground that certain of its labor was agricultural under the definition was opposed by compliance or enforcing officers.

This definition was unfortunately worded in respect to the term "area of production". Failure to define "Area of production" opened the way to interested parties to claim that the area of production included areas of subsequent processing. This loose phrase gave color to the conclusion drawn by the citrus operators, that their house labor, though clearly an industrial process involving the "handling of an agricultural commodity", was agricultural labor since it was performed within the area of production.

The AAA itself subsequently interpreted this definition as authorizing exemption, as agricultural labor, of workers engaged in handling and processing operations subsequent to agricultural production if employed within the "area of production".

The unions of workers in the citrus industry wired in to ascertain whether the protection of the National Recovery Administration was to be denied them. The staff advisers of the Labor Advisory Board held that the definition as promulgated was not intended to, and did not, exclude packing house workers from the scope of codes under the National Industrial Recovery Act. The ambiguity of the definition was at once recognized. To clarify the meaning, the wording of the definition was altered and the phrase, "on the farm", substituted for the former expression, "within the area of production". With this change, the definition was broadcast in a press release dated September 8,

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(*) See below, p. 27.

(**) But this case came under the PRA, under which an official interpretation exempted agricultural labor.

1933. (*)

The Agricultural Adjustment Administration however, apparently interpreted the earlier definition as excluding the workers in citrus packing houses from the scope of a code of labor provisions. They refused to agree to the subsequent definition given in the press release of September 8, and proceeded with the negotiations for a marketing agreement without reference to a National Recovery Administration labor code.

To secure first hand information upon which to base judgment as to the conditions of work, a delegation was sent to the citrus fields of Florida in February, 1934. (**) The Commission held that grove workers should be deemed agricultural, while pickers and packing house employees should be considered industrial workers. (***)

Meanwhile the Agricultural Adjustment Administration issued two marketing agreements for citrus fruits although there was no code of labor provisions for the industries involved. (****) One agreement, effective December 14, 1933 covered citrus fruit from Florida and also oranges and grapefruit grown in California and Arizona; the other, effective December 26, 1933 concerned oranges and grapefruit from Texas.

(*) Release No. 692 - September 8, 1933
" 'Agricultural workers' are all those employed by farmers on the farm when they are engaged in growing and preparing for sale the products of the soil and/or livestock; also, all labor used in growing and preparing perishable agricultural commodities for market in original perishable fresh form. When workers are employed in processing farm products or preparing them for market, beyond the stage customarily performed on the farm, such workers are not to be deemed agricultural workers."

(**) The commission included William J. Woolston, for the NRA, Isador Lubin, of the Department of Labor, Francis M. Shea, of the Department of Agriculture, and Harvey Cox of the National Labor Board.

(***) Report of the Interdepartmental Committee appointed to investigate conditions of labor in the Florida Citrus Industry, pp 4 and 5, Appendix B.

(****) The AAA took the position that Marketing Agreements, as distinct from Codes of Fair Trade Practice provisions, were independent of Codes of Labor Provisions.

The Foods Division of the Labor Advisory Board of the National Recovery Administration urged general acceptance of the revised definition. The Agricultural Adjustment Administration took the position that the original definition of August 19, 1933 had been approved by both the National Recovery Administration and the Agricultural Adjustment Administration, and that, being so approved, was the official interpretation. Then the National Recovery Administration reaffirmed the original definition, leaving (*) the connotation of "area of production" still unsettled.

Six months later the issue again arose, this time with respect to the cotton ginning industry. The ginners wished to exclude practically all of their employees from the code labor provisions on the ground that they were agricultural workers. In many cases the same Negro farm hands who picked the cotton in the fields were also employed in the cotton ginning operation. Where the identical individuals were not hired, others with the same general agricultural background were employed. The operators urged that higher wages paid to labor in cotton ginning would affect labor costs in the cotton fields, since the workers would demand the same pay. The Agricultural Adjustment Administration supported the industry in this contention.

The National Recovery Administration, on the other hand, was faced with similar but opposite problems in the possible tendency of lower paid cotton ginning labor to pull down industrial wages rates for somewhat similar tasks or to present problems of unfavorable competition through lower wages costs to industrial employers. The National Recovery Administration consequently insisted that labor in the cotton ginning industry was industrial and subject to a labor code.

The Advisory Council of the National Recovery Administration,

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(*) Divisional Administrator George L. Berry, with the approval of Recovery Administrator General Hugh S. Johnson reaffirmed the definition in Release No. 2781, of January 17, 1934, which stated:

> "Agricultural workers are all those employed by farmers on the farm when they are engaged in growing and preparing for sale the products of the soil and/or livestock; also, all labor used in growing and preparing perishable agricultural commodities for market in original perishable fresh form. When workers are employed in processing farm products or preparing them for market, beyond the stage customarily performed within the area of production, such workers are not to be deemed agricultural workers."

to which the problem was referred, made the following recommendation that (*)

> "the status of an agricultural worker becomes that of an industrial worker whenever he leaves the land and enters any plant, factory, or other establishment in which agricultural products are processed or prepared for the marker."

This attempted clarification, however, received no subsequent official support from either the National Recovery Administration or the Agricultural Adjustment Administration. The industry encountered difficulties in negotiating with the Agricultural Adjustment Administration for a marketing agreement. Neither a code nor a marketing agreement was adopted for the industry.

In a draft code for agricultural labor presented by the Bureau of Agricultural Economics the definition of agricultural labor read:

> "This code shall apply to all labor hired on farms to engage in agricultural production to the point of delivery of the products at the shipping point, market, or storage, or processing plant off the farm, including share croppers."

However the Bureau also recommended that no code be adopted. Also, though the legal devision of the Agricultural Adjustment Administration held that a code for farm labor was authorized under the Recovery Acts, no group of farmers submitted a code involving their labor.

The application of these approved definitions and the course of the negotiations involving farm labor in the Seed, Cotton Ginning, and the Refrigerated Warehouse, and the Wholesale Fruit and Vegetable Industries further illustrate the issues.

In the proposed code for the Seed Industry, a definition of agricultural labor was included in the code as drafted for public hearing.

> "The term agricultural workers as used herein means employees engaged in performing labor in the field in connection with the production and harvesting of crops, but does not include workers employed in warehouses and cleaning plants engaged in the processing of seeds."

This proposal led to correspondence between the NRA and the Secretary of Agriculture. The latter, in the interests of clarification of the issue, did not oppose its presentation at the public hearing; he insisted, however, that it should not establish precedent nor modify

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(*) NRA Advisory Council Decisions, Vol. I, #2, June 26, 1934.

The National Recovery Administration Legal Division objected to approving a code containing such clause on the ground that agricultural labor was not specifically exempted under the Act. (*)

Similar problems arose in the Refrigerated Warehouse and Wholesale Fresh Fruit and Vegetable Distributive Industries. In areas where fruit and vegetable crops were prepared for shipment or storage, the grading, cleaning, and packing were performed in some cases on the farms at the expense of the farmer; but the trend had been toward assumption of these operations by the packing houses and particularly by the refrigerated warehouses. This custom had developed because once the fruit was in the warehouse, the operations of grading and packing could be performed without pressure caused by imminence of spoilage. On the farm such operations had to be performed promptly in order to minimize losses. The Agricultural Adjustment Administration and the industry considered the labor engaged in grading, cleaning, and packing operations to be agricultural and exempt from the labor provisions of National Recovery Administration codes, because the operations were performed within "the area of production".

A case arising under the Refrigerated Warehouse Code in Yakima, Washington, led to a hearing (**) before the National Recovery Administration. The specific issue concerned compliance with provisions of the Warehouse Code. The firms in question pleased that Article II, Section I, of the Warehouse Code excluded products governed by any other code and that its processes were governed by the Wholesale Fresh Fruit and Vegetable Distributive Industry Code. The latter code exempted the production, "preparation, assembling, or loading at point of production of commodities for shipment". The Compliance Office of National Recovery Administration, with administrative concurrence, had interpreted "point of production" as the farm premises. (***) This was a different phrasing and meaning than "area of production" of the original definition. Although hearings to determine the facts at issue had been held in Yakima, (****) resulting recommendation had not been

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(*) See Memorandum of Frank Elmore on question of Agricultural labor. National Recovery Administration files.

(**) On April 8, 1935.

(***) See National Recovery Administration files.

(****) At the hearing it was brought out that in California employers in a similar situation were satisfied to classify all their warehouse employees as industrial workers. Subsequent to the hearing at a conference between Agricultural Adjustment Administration, National Recovery Administration, and Labor Advisory Board, the Agricultural Adjustment Administration representatives were willing to agree that warehouse labor which handled fruit after it had been placed upon the moving platform for conveying to the warehouse storage shelves should be deemed subject to code, provided that labor which handled the fruit from the farm till it was placed upon the moving platform at the warehouse should be considered agricultural and exempted from the code.

made by the time of the Supreme Court decision in the Schechter case.

In the Meat Packing Industry a similar problem of classification of workers as agricultural or industrial involved the limits of scope of the President's Re-employment Agreement. (*) The Tovrea Packing Company, which was four miles from Phoenix, Arizona, raised the question whether its employees, who lived in Phoenix and worked in the fattening pens adjacent to the plant, were subject to the provisions of the Meat Packers' President's Re-employment Agreement substitution. The issue concerned the classification of the work of fattening animals before slaughter as industrial or agricultural. (**) The Complaince office of the National Recovery Administration had held that the labor was industrial. (***) The company appealed to the Industrial Appeals Board on the ground that the employees were agricultural workers. Final decision by the National Industrial Recovery Board was not rendered before the Schechter decision.

(*) Under the PRA the Administration exempted agricultural labor, see above p.

(**) In presenting a code the Stockyards Association had granted that employees caring for livestock in stockyards immediately preparatory to sale or slaughter were industrial employees.

(***) See Memorandum of Frank Elmore on question of agricultural labor. National Recovery Administration files.

B. DEFINITION OF INDUSTRIES IN CODES

Definition of the industry offered the normal method of settling the issues of coverage. Each code had to contain a definition of the industry to which it applied. This definition had to conform with the requirements of the NIRA; this led to the exclusion of purely agricultural operations from the scope of the code. While and in so far as the AAA had jurisdiction over these codes in the borderland zone, the definitions had to satisfy both AAA and NRA. Furthermore, the definition had to conform with the scope of the industry as represented in the association sponsoring the code. The code could not extend over an industry or branch of an industry for which the association sponsoring it did not have adequate representation. Thus an association for pecan shelling could not cover the shelling of walnuts if there were no representation of the latter in the groups seeking the code.

The following examples show code definitions drafted to exclude agricultural operations from the scope of the codes.

Pecan Shelling Industry (Code No. 528, Art. II, Sec. 6):

The terms "Pecan Shelling Industry" as used herein includes the processing of shelling pecans (exclusive of paper shell pecans) from their natural state by cracking, and/or shelling, and/or cleaning, and/or preparing for market the meats or kernels of said pecans and the sale thereof by the processors and/or shellers. It shall not include individual farmers selling meats, or kernels of pecans, grown and/or gathered by them.

Wholesale Fresh Fruit and Vegetable Distributive Industry (AAA; Code No. 17, Art. II, Sec. 1)

The terms "wholesale fresh fruit and vegetable distributive industry" and "industry" as used herein include shipping, receiving, selling or buying, or offering to sell or buy, either as principal or agent, fresh fruits and fresh vegetables in wholesale quantities, but shall not include the sale or distribution of fresh fruits or fresh vegetables other than to a trade buyer. The industry as defined shall not include the production nor preparation, assembling, or loading at point of production of commodities for shipment, nor shall anything in this Code or regulations thereunder prevent anyone from marketing or trading produce of his farm.

Refrigerated Warehousing Industry (Code No. 449, Art. II, Sec. 1)

The term "Refrigerated Warehousing Industry" or "Industry" as used herein includes the furnishing, for a consideration, of warehousing services and/or storage for goods, wares and/or merchandise in any building or structure, or any part thereof, which is artifically cooled, except products which are governed by another approved code or codes.

Auction and Loose Leaf Tobacco Warehouse Industry (AAA: Code No. 18 Art. II. Sec. 4)

The term "industry" means and includes the business of operating a leaf tobacco warehouse for the sale of loose leaf tobacco at auction and such related branches and subdivisions thereof as may from time to time be included under the provisions of this code.

Of these cases, the first two placed the code's jurisdictional limit at the point of production. In the first instance the clause excluding farmers who shelled the pecans which they had raised had little effect upon the industry as a whole. Technically they could have been brought in under the code, according to an interpretation by the Legal Division of the National Recovery Administration, but actually no attempt was made to extend code coverage to include the farmer's incidental processing of his crop. Otherwise the wording of the code stayed well within the terms of industrial processes. The definition in the Wholesale Fruit and Vegetable Distributive Industry aimed to eliminate all farmers' operations. The other two codes were couched in terms that left agricultural occupations out completely.

In the Auction and Loose Leaf Tobacco Warehousing Code the labor was regarded as definitely industrial. The operations governed by the code were performed in agricultural communities, and the employees were drawn from the farms, returning there when the warehouse work was over. From the National Recovery Administration point of view all the labor was industrial; and the industry entered no objections so to considering it. Another case where the jurisdictional problem created no issue was the Commercial Breeder and Hatchery Code. There, although the labor was largely recruited from farms and the majority of establishments covered were located on farms or in towns of less than 2,500, the industry never asked exemption from code provisions for its labor. Conditions in these two industries did not differ noticeably from those of certain enterprises that raised the issue of classifying their employees as agricultural. Both industries had code wages rates substantially higher than those generally paid to farm labor. Neither was exceptionally prosperous nor free from competition.

C. SUMMARY: AREAS AND TYPES OF CONFLICT

In summary, the controversy over the definition and inclusion of agricultural workers in codes of labor provisions assumed three main aspects.

In the first place, the question arose as to whether an industry was subject to a code of labor provisions. This was exemplified in the case of the Citrus Packing House Industry, which claimed that all its labor was agricultural and hence exempt from the NRA code requirements. The Executive Order of October 17, 1933 and of January 8, 1934, provided that questions involving the spheres of jurisdiction of AAA and NRA might be decided by agreement between the heads of the respective organizations, or failing such agreement, by the President. Few cases, however, fall in this category.

Secondly, in case of an industry seeking a code, a question might arise as to the exclusion from the labor provisions of certain of its workers as "agricultural workers". This problem was met in practice by a definition of the industry in terms to exclude such workers. In no case did a definition of agricultural workers as an exempted group appear in an NRA code. (Controversies over this question, so far as the letter of the Executive Orders is concerned, do not appear to be covered by the provision for settlement by agreement). Samples of definitions of industries where the problem of agricultural production is touched, are given above.

Thirdly, after a code was approved, jurisdictional disputes as to the extent and limits of NRA control might be raised by industry representatives, in trying to force their interpretation of the so-called original definition of agricultural workers. The existence of this definition caused dissatisfaction and misunderstanding on the part of employers and employees and raised difficulties with compliance. Strictly speaking, the applicability of the NRA code was a legal question for settlement through regular channels including Compliance, Industrial Appeals Board, N.I.R.B., and the courts.

VI. RESULTS AND CONCLUSION.

A. Effect upon Codification and Compliance.

The net result of these controversies was in some cases to restrict the scope of the National Recovery Administration efforts to bring workers under code labor provisions. Since the codes were voluntary, certain industries within the area of controversy simply failed to present codes. If a business considered part of its workers to be agricultural and exempt from code provisions, National Recovery Administration insistence that they were industrial sometimes caused hesitation to present any code. Consequently a point gained by the National Recovery Administration in definition of an occupation might result in failure to secure codification at all. This became apparent in negotiations with food industries. The cotton ginners early withdrew from code negotiations, although in their case the argument for non-cooperation was based upon terms of the marketing agreements as well as upon the labor provisions. Other industries in which the known reason for not codifying was partly the issue of classification were the cigar leaf dealers and the florists.

The problem of classification led to difficulties in securing compliance. Uncertainty concerning inclusion of certain categories of workers encouraged further non-compliance pending authoritative settlement of the controversy. This situation was encountered in Yakima.

B. Estimated Effects upon Workers.

The brief history of the National Recovery Administration brought to light a number of industries in agricultural areas, drawing their working force from labor similar to that working on farms, that took it for granted that their employees fell within the National Recovery Administration and applied for codes. Others, similarly situated, classified themselves as agricultural when confronted with the Recovery Program. Still others attempted to distinguish among their employees, classifying some as industrial and others as agricultural. How exhaustively the National Recovery Administration explored this borderline area there is no means of determining. Consequently the crude and probably highly inexact estimates of coverage (*) give some notion of the National Recovery Administrations's administrative problem in this uncharted territory but merely a vague idea of the possible scope of the problem. What estimates are available give no indication of the number of industrial workers indirectly affected because they were employed in occupations or localities where the wages and other conditions of these borderline types of labor exerted competitive influence upon their own. Similarly their possible influence in pulling up standards of farm laborers is not measurable.

(*) See Appendix B

C. Conclusion.

The consequence of the exclusion of agricultural labor from both the AAA and the NRA extended beyond the field of labor engaged in agricultural production and to labor engaged in certain of the borderline industries. The controversies over the topic were one of the causes which led to industries' refusing to accept or seek codification. The extent of the influence of these controversies may be seen in the group of large and small industries in the borderline fields for which no codes were approved.

APPENDIX A

TABLE I

UNCODIFIED INDUSTRIES INVOLVING DELIMITATION OF AGRICULTURAL PRODUCTION OR AGRICULTURAL WORKERS.

Industry	Employment 1933	Primary reason for no code	Workers claimed to be agricultural by Industry or AAA.
Citrus Fruit Growing	190,000	A	Yes
Citrus Fruit Packing	10,000	B	Yes
Cotton Ginning	90,000 - 100,000	BC	Yes
Cotton Compressing Warehousing (AAA-NRA)	30,000	(1) C	- (2)
Cotton Seed Crushing (AAA-NRA)	20,000	C	(3)
Cigar Leaf Dealers (AAA-NRA)	40,000 - 50,000	(4) B	Yes (5)
Tobacco Leaf Dealers (AAA-NRA)	35,000	D	
Florists	35,000	AB	Yes
Pacific Coast Dried Fruit Drying	15,000	B	Yes
Naval Stores - Raw Gum Branch	13,000	B	Yes

A- Labor employed in agricultural production
B- Labor claimed to be agricultural
C- Trade practices insisted on by AAA or NRA not acceptable to industry
D- Labor provisions not acceptable to NRA

(1) Difficulty with codifying publicly owned warehouses
(2) Question never raised by industry or by AAA
(3) Question raised by certain members of the industry only
(4) Proposed code withdrawn on advice of counsel, on the ground of agricultutal labor
(5) Same type of labor as Cigar Leaf Dealers, but question never raised.

TABLE II

CODIFIED INDUSTRIES INVOLVING DELIMITATION OF AGRICULTURAL PRODUCTION OR AGRICULTURAL WORKERS.

Industry	Estimated No. of workers under code (1933)
Wholesale Fresh Fruit and Vegetable (AAA-NRA)	(1) 45,000
Refrigerated Warehouse	9,000
Auction and Loose Leaf Tobacco Warehousing (AAA-NRA)	(2) 25,000
Naval Stores - Pinewood Distillation Branch (under Chemical Industries Code)	1,500- 1,900

(1) Besides these, some 20,000 workers excluded on account of the agricultural labor controversy as workers "at point of production."

(2) Highly seasonal, figure for peak period. Issue as to exemption of agricultural workers was never raised.

NOTES TO TABLE I AND II

SOURCES OF INFORMATION REGARDING NUMBER OF EMPLOYEES LISTED IN TABLES I AND II

Table I

Citrus Fruit Growing

The Census of Agriculture for 1930 shows 46,558 growers of oranges, 20,598 growers of grapefruit, 8,848 growers of lemons and 581 growers of limes. Allowing for duplications, it is estimated that there were 60,000 growers of oranges and grapefruit, with three or four thousand additional growers of lemons and limes, not included in the 60,000. The average number of paid employees of each grove is estimated at three. These figures yield a rough estimate of 190,000 employees.

Citrus Packing

Estimated by taking 50% of the estimated number of employees engaged in packing all fruits and vegetables. The 1933 Wholesale Distribution census reports 11,000 employees of Assemblers of Farm Products (*) which includes establishments maintained for packing, shipping and distributing agricultural products (mostly fruits and vegetables) but excludes packing and shipping operations by farmers or other producers directly from their farms and orchards, (**) and 6,500 employees of the Fruit and vegetable Cooperative Marketing Associations. The latter may include some not engaged in packing, but it is believed by the Census officials that the error due to these inclusions is balanced by the omission of packing employees who work for individual farmers. A small number of packing house workers may be employed by firms classified as "Wholesalers". The total of 17,500 employees engaged in packing is an average for the year. Peak employment is several thousand in excess of the average, according to unofficial estimates of the Census Bureau. On the basis of the foregoing, the peak employment is estimated at 20,000, one half of whom, according to the Census officials, may be taken as employed in citrus packing.

Cotton Ginning

Estimate based on reports compiled by the Cotton and Oils Division of the Bureau of the Census. These reports show some 15,000 ginneries; estimates made by the Bureau of Agricultural Economics and by Research and Planning indicate that on the average each establishment has approximately six employees.

(*) Census of American Business, 1933, Wholesale Distribution, Vol. I, p.A-17.

(**) Ibid, p.31

Cotton Compressing and Warehousing

The Cotton and Oils Division reports show 400 compressors in operation in 1933. The average number of persons employed by each is unofficially estimated by the Bureau of Agricultural Economics to be about 50. In addition, approximately 2,000 public storage warehouses, not connected with compressers, operated in 1933. A rough estimate made by the Assistant Deputy Administrator is to the effect that the average number of employees of warehousing establishments separate from compresses would be about 10.

Cotton Seed Crushing

A Research and Planning survey shows approximately 500 mills in operation in 1934. The average number of employees of each is 40.

Cigar Leaf Dealers

Estimate made by Deputy Administrator's office on basis of data collected in field survey.

Tobacco Leaf Dealers

Estimate made by Deputy Administrator's office on basis of data collected in field survey.

Florists (Growers)

Estimate of industry representatives.

Pacific Coast Dried Fruit Drying

Estimate of industry representatives.

Naval Stores - Raw Gum

No figures are available which bear directly on the number of employees in this industry. According to the AAA the Raw Gum branch employs approximately seven times as many as the wood distillation branch. The latter employ somewhat less than 2,000 workers, according to an estimate made by the Industry for the Deputy Administrator handling the Chemical Code.

Table II

Wholesale Fresh Fruit and Vegetable

The figure, 45,000, represents an estimate for employees at peak period. The 1933 census of wholesale distribution reports 55,000 average for the entire industry; excluding 17,500 (average) engaged in packing operations, (See note above on Citrus Packing) gives some

37,500 workers in the industry except packing employees. The industry being highly seasonal, the figure of 45,000 represents a conservative estimate for the maximum number of workers. In 1929 the Census reported 92,800 workers employed.

Auction and Loose Leaf Tobacco Warehousing

Census of Distribution figure for 1933 with estimated correction to show maximum number employed during the very short peak season.

Naval Stores - Wood Distillation

Estimate made by the industry.

APPENDIX B

"REPORT OF THE INTERDEPARTMENTAL COMMITTEE APPOINTED TO INVESTIGATE LABOR CONDITIONS IN THE FLORIDA CITRUS INDUSTRY"

To: The Honorable, the Secretary of Agriculture,
The Honorable, the Secretary of Labor,
The Honorable, the Administrator of the National Recovery Administration,
The Honorable, the Chairman of the National Labor Board.

Several strikes of the citrus workers in the Lake Wales area, which is in the heart of the Florida Citrus Belt, led to the appointment of the undersigned committee, composed of Isador Lubin, representing the Department of Labor, Francis M. Shea, the Department of Agriculture, William J. Woolston, the National Recovery Administration, and Harvey Cox, the National Labor Board. The committee was delegated (1) To investigate the sources of these labor problems, (2) To submit its opinion as to whether a Code of Fair Competition under the National Industrial Recovery Act might properly and effectively be used as an aid in their solution, (3) To make such other recommendations as its analysis of the situation might suggest.

1.
Report of Conditions

At a minimum there are 50,000 persons employed in the citrus industry. Conditions of employment often involve many specific abuses. The income of these workers upon the best available data averages no higher than $7.00 per week over the year. There is no supplementary employment which can be looked to for a regular increase of this income. Except in isolated instances there is no chance of adding to the sources of support by small gardening which is a usual factor to be considered in determining the economic conditions of farm labor. In general, these workers live in towns. They have rent to pay which ranges from $6.00 to $12.00 a month. Their food and clothing must be purchased in the town stores. Few are able to remain out of debt even when restricting themselves to the most meager living. The protestations of the packers are that if their business is made secure and profitable by Government intervention, labor will be well enough off. But past performance is not convincing that benefits will be fairly shared with the workers.

The citrus workers' union is an extensive and growing organization. Through the bargaining power which it may afford, it is possible that labor will be able to enact more favorable dealing. But every means is being exercised to break down this organization by the employers. (1) The usual forms of terrorism have been employed though not as extensively as in many disputes of this character. (2) The fears of the workers for loss of their employment have been engaged against unionization by threats that persons joining the union will be discharged, which have been made graphic by actual performance of the

threats. (3) Establishment of countervailing company unions. (4) Keeping union members away from meetings by requiring them to work on meetings nights, etc.

The citrus workers' union is truly representative of the workers in the industry. It extends throughout the heart of the citrus belt and is fast pushing its organization into every area in which citrus is grown. There are, according to the union rolls, 8,618 members. This is not an entirely paid up membership as persons are continued on the rolls, though they have lapsed in payment of dues, where they are out of employment or otherwise unable to meet such obligation. However, attendance at union meetings indicates that this is not an exaggeration of the strength of the union and the united front which has been presented in several strikes in the area confirms it. The union includes in its membership both men and women, negroes and white workers. Its membership extends to grove workers, pickers, packing house employees, canning factory workers and all other types of those employed in the citrus industry.

It was represented by the packers that the union represented merely the agitation of a few persons in a localized area, but our investigation entirely disproves this contention.

II.

Recommendations

On the initial premises of this Administration that no class is to be ignored, that suffering and exploitation is a signal for directed effort on the part of the Government to alleviate the evils, that the benefits conferred by Government action are not to be bestowed at the top with the hope that they will seep through but are to be carried down by Government direction to all classes, Government intervention in the interest of the citrus workers is called for.

The citrus industry will not respond to a common ideology which sharply segregates farm and industrial labor. The citrus workers may be roughly divided into three classifications: (1) grove workers, (2) pickers, (3) packing house employees.

If one were to adopt any common conceptions of farm labor and industrial labor, the grove workers would probably fall in the former category while pickers and packing house employees would be deemed industrial workers.

Grove labor is employed to plow, hoe, and fertilize, to prune and spray the trees, etc. This is traditional farm work, but in certain marked respects thise employed at it are not of the traditional type of farm labor. By and large, they are not given their subsistence. They live in towns and are transported to the groves to do their work. They are part of a labor market which is dealt with by employers and responds much as any industrial labor market.

The packing house employees are distinctly industrial labor. They are used in cleaning, grading and packing the fruit. They are factory workers, skilled and unskilled, carrying on routinized operations. They are the adjuncts of belt conveyors, mechanical graders and other typically industrial machinery.

The pickers are in rather an intermediate position. Their work consists of cutting fruit from the trees and putting it in boxes for shipment to the packing houses. These workers are employees of the packing houses. They report at the factories and are transported to the groves. They are brought into a particular grove only for the single operation and paid at piece rates and moved from grove to grove at the direction of their employers. They live in towns and are hired from an ordinary labor market. This type of labor would seem to be more characteristically industrial than agricultural.

The definition of this labor as farm and industrial labor, according to common conceptions, is relevant only as such common conceptions coincide with possible distinctions made by the National Industrial Recovery Act. The legislative history of that Act contains some indications that farm labor was not intended to be brought within its labor provisions, though it is not conclusive on the point and a strong arugment to the contrary may be made from the terms of the Act itself. However, even if farm labor is excluded from sharing in the benefits of the National Industrial Recovery Act's provisions farm labor as opposed to industrial labor is given no clear definition in this legislative history of that Act. There is some aid to be found in it as to where the line should be drawn but ultimately the above determinations, based on common conceptions, would perhaps be sustained as the most reasonable segregation of the types of labor in the citrus industry between farm and industrial workers. It should be noted that an administrative interpretation of the term "agricultural worker" was made by Release No. 2781, on January 17, 1934, purporting to be an official definition agreed upon by the National Recovery Administration and the Agricultural Adjustment Administration. This definition has not been uniformly followed and is not entirely free from ambiguity, but in any event the question of whether labor is industrial or farm labor for the purpose of determining whether a code of fair competition under the National Industrial Recovery Act may be made applicable thereto is a question of law upon which administrative interpretations cannot be finally determinative.

A code of fair competition under the National Industrial Recovery Act might be imposed upon the citrus industry and its labor provision extended to pickers and packing house employees. Such a code might have value in assisting labor in collective bargaining by exacting recognition of its representatives and its right to organize under Section 7 (a), but it is probably not the adequate solution. Wages are unusually low in the industry, but labor is suffering primarily from the irregularity of employment. A minimum daily wage which might be set by a code of fair competition would not materially increase the income of citrus labor. It might not even require a raising of present rates. The workers would still be employed in the sporadic fashion in which they now are and their total income probably limited to the present meager amounts.

The problem of regularizing employment must be attacked if an answer approaching adequacy is to be given this problem. Use of codes of fair competition for this purpose would require provisions fixing a minimum period of employment or a minimum income for the season. In the way of such a use of codes are possible constitutional difficulties and the unprecendented character of such provisions.

A condition of any ultimately successful move to deal with labor conditions must be the regularizing of the citrus market. If that can be attained, the possibility exists of regularizing the use of citrus labor. For a period of eight months during the year there is fruit in the groves ready for picking. It does not spoil quickly after reaching ripened condition. There is a period of from one to two months grace in gathering in the crop after it has matured. There is likewise some latitude (at least a week's time if the fruit is not artificially colored) in packing after the harvest. If the fruit can be steadily moved out to market during the eight month's season, picking and packing might be carried on steadily during the period. A further condition of adequately increasing the income of citrus labor must be a raising of the general income from citrus fruit. Returns to growers have fallen sharply, and as grove labor is dependent upon sharing in these returns, substantial increases of the income of such labor cannot be secured if these returns are ruinously low.

The problems of establishing stable marketing conditions and increasing the income from citrus products are problems entrusted to the Agricultural Adjustment Administration. If it be accepted as a promise that the income of citrus workers is inextricably bound up with these two problems, the solution of the one is dependent upon the solution of the other, and a high degree of correlation should be sought in the efforts directed to the solution of the problems of marketing and increasing the income from citrus fruit on the one hand and the problem of bettering the conditions and increasing the wages of citrus labor on the other.

It would therefore seem desirable that an agency entrusted with the problems of citrus labor be set up in such a way as to permit close cooperation with the existing agency entrusted with the problems of Agriculture generally. This conclusion suggests that the desirable procedure would be to set up a unit in the Department of Agriculture empowered to deal with the problems of labor in agricultural pursuits such as citrus and correlated to the activities of the existing Agricultural Adjustment Administration.

It is recognized that any program of this character is experimental, and as trial of it is made new suggestions of procedure will undoubtedly develop.

OFFICE OF THE NATIONAL RECOVERY ADMINISTRATION

THE DIVISION OF REVIEW

THE WORK OF THE DIVISION OF REVIEW

Executive Order No. 7075, dated June 15, 1935, established the Division of Review of the National Recovery Administration. The pertinent part of the Executive Order reads thus:

> The Division of Review shall assemble, analyze, and report upon the statistical information and records of experience of the operations of the various trades and industries heretofore subject to codes of fair competition, shall study the effects of such codes upon trade, industrial and labor conditions in general, and other related matters, shall make available for the protection and promotion of the public interest an adequate review of the effects of the Administration of Title I of the National Industrial Recovery Act, and the principles and policies put into effect thereunder, and shall otherwise aid the President in carrying out his functions under the said Title. I hereby appoint Leon C. Marshall, Director of the Division of Review.

The study sections set up in the Division of Review covered these areas: industry studies, foreign trade studies, labor studies, trade practice studies, statistical studies. legal studies, administration studies, miscellaneous studies, and the writing of code histories. The materials which were produced by these sections are indicated below.

Except for the Code Histories, all items mentioned below are scheduled to be in mimeographed form by April 1, 1936.

THE CODE HISTORIES

The Code Histories are documented accounts of the formation and administration of the codes. They contain the definition of the industry and the principal products thereof; the classes of members in the industry; the history of code formation including an account of the sponsoring organizations, the conferences, negotiations and hearings which were held, and the activities in connection with obtaining approval of the code; the history of the administration of the code, covering the organization and operation of the code authority, the difficulties encountered in administration, the extent of compliance or non-compliance, and the general success or lack of success of the code; and an analysis of the operation of code provisions dealing with wages, hours, trade practices, and other provisions. These and other matters are canvassed not only in terms of the materials to be found in the files, but also in terms of the experiences of the deputies and others concerned with code formation and administration.

The Code Histories, (including histories of certain NRA units or agencies) are not mimeographed. They are to be turned over to the Department of Commerce in typewritten form. All told, approximately eight hundred and fifty (850) histories will be completed. This number includes all of the approved codes and some of the unapproved codes. (In Work Materials No. 18, Contents of Code Histories, will be found the outline which governed the preparation of Code Histories.)

(In the case of all approved codes and also in the case of some codes not carried to final approval, there are in NRA files further materials on industries. Particularly worthy of mention are the Volumes I, II and III which constitute the material officially submitted to the President in support of the recommendation for approval of each code. These volumes

set forth the origination of the codes, the sponsoring group, the evidence advanced to support the proposal, the report of the Division of Research and Planning on the industry, the recommendations of the various Advisory Boards, certain types of official correspondence, the transcript of the formal hearing, and other pertinent matter. There is also much official information relating to amendments, interpretations, exemptions, and other rulings. The materials mentioned in this paragraph were of course not a part of the work of the Division of Review.)

THE WORK MATERIALS SERIES

In the work of the Division of Review a considerable number of studies and compilations of data (other than those noted below in the Evidence Studies Series and the Statistical Material Series) have been made. These are listed below, grouped according to the character of the material. (In Work Materials No. 17, Tentative Outlines and Summaries of Studies in Process, the materials are fully described).

Industry Studies

Automobile Industry, An Economic Survey of
Bituminous Coal Industry under Free Competition and Code Regulation, Ecnomic Survey of
Electrical Manufacturing Industry, The
Fertilizer Industry, The
Fishery Industry and the Fishery Codes
Fishermen and Fishing Craft, Earnings of
Foreign Trade under the National Industrial Recovery Act
  Part A - Competitive Position of the United States in International Trade 1927-29 through 1934.
  Part B - Section 3 (e) of NIRA and its administration.
  Part C - Imports and Importing under NRA Codes.
  Part D - Exports and Exporting under NRA Codes.
Forest Products Industries, Foreign Trade Study of the
Iron and Steel Industry, The
Knitting Industries, The
Leather and Shoe Industries, The
Lumber and Timber Products Industry, Economic Problems of the
Men's Clothing Industry, The
Millinery Industry, The
Motion Picture Industry, The
Migration of Industry, The: The Shift of Twenty-Five Needle Trades From New York State, 1926 to 1934
National Labor Income by Months, 1929-35
Paper Industry, The
Production, Prices, Employment and Payrolls in Industry, Agriculture and Railway Transportation, January 1923, to date
Retail Trades Study, The
Rubber Industry Study, The
Textile Industry in the United Kingdom, France, Germany, Italy, and Japan
Textile Yarns and Fabrics
Tobacco Industry, The
Wholesale Trades Study, The
Women's Neckwear and Scarf Industry, Financial and Labor Data on

Women's Apparel Industry, Some Aspects of the

Trade Practice Studies

Commodities, Information Concerning: A Study of NRA and Related Experiences in Control
Distribution, Manufacturers' Control of: Trade Practice Provisions in Selected NRA Codes
Distributive Relations in the Asbestos Industry
Design Piracy: The Problem and Its Treatment Under NRA Codes
Electrical Mfg. Industry: Price Filing Study
Fertilizer Industry: Price Filing Study
Geographical Price Relations Under Codes of Fair Competition, Control of
Minimum Price Regulation Under Codes of Fair Competition
Multiple Basing Point System in the Lime Industry: Operation of the
Price Control in the Coffee Industry
Price Filing Under NRA Codes
Production Control in the Ice Industry
Production Control, Case Studies in
Resale Price Maintenance Legislation in the United States
Retail Price Cutting, Restriction of, with special Emphasis on The Drug Industry.
Trade Practice Rules of The Federal Trade Commission (1914-1936): A classification for comparision with Trade Practice Provisions of NRA Codes.

Labor Studies

Cap and Cloth Hat Industry, Commission Report on Wage Differentials in
Earnings in Selected Manufacturing Industries, by States, 1933-35
Employment, Payrolls, Hours, and Wages in 115 Selected Code Industries 1933-35
Fur Manufacturing, Commission Report on Wages and Hours in
Hours and Wages in American Industry
Labor Program Under the National Industrial Recovery Act, The
  Part A. Introduction
  Part B. Control of Hours and Reemployment
  Part C. Control of Wages
  Part D. Control of Other Conditions of Employment
  Part E. Section 7(a) of the Recovery Act
Materials in the Field of Industrial Relations
PRA Census of Employment, June, October, 1933
Puerto Rico Needlework, Homeworkers Survey

Administrative Studies

Administrative and Legal Aspects of Stays, Exemptions and Exceptions, Code Amendments, Conditional Orders of Approval
Administrative Interpretations of NRA Codes
Administrative Law and Procedure under the NIRA
Agreements Under Sections 4(a) and 7(b) of the NIRA
Approved Codes in Industry Groups, Classification of
Basic Code, the -- (Administrative Order X-61)
Code Authorities and Their part in the Administration of the NIRA
  Part A. Introduction
  Part B. Nature, Composition and Organization of Code Authorities

Part C. Activities of the Code Authorities
Part D. Code Authority Finances
Part E. Summary and Evaluation
Code Compliance Activities of the NRA
Code Making Program of the NRA in the Territories, The
Code Provisions and Related Subjects, Policy Statements Concerning
Content of NIRA Administrative Legislation
Part A. Executive and Administrative Orders
Part B. Labor Provisions in the Codes
Part C. Trade Practice Provisions in the Codes
Part D. Administrative Provisions in the Codes
Part E. Agreements under Sections 4(a) and 7(b)
Part F. A Type Case: The Cotton Textile Code
Labels Under NRA, A Study of
Model Code and Model Provisions for Codes, Development of
National Recovery Administration, The: A Review of its Organization and Activities
NRA Insignia
President's Reemployment Agreement, The
President's Reemployment Agreement, Substitutions in Connection with the
Prison Labor Problem under NRA and the Prison Compact, The
Problems of Administration in the Overlapping of Code Definitions of Industries and Trades. Multiple Code Coverage, Classifying Individual Members of Industries and Trades
Relationship of NRA to Government Contracts and Contracts Involving the Use of Government Funds
Relationship of NRA with States and Municipalities
Sheltered Workshops Under NRA
Uncodified Industries: A Study of Factors Limiting the Code Making Program

Legal Studies

Anti-Trust Laws and Unfair Competition
Collective Bargaining Agreements, the Right of Individual Employees to Enforce
Commerce Clause, Federal Regulation of the Employer-Employee Relationship Under the
Delegation of Power, Certain Phases of the Principle of, with Reference to Federal Industrial Regulatory Legislation
Enforcement, Extra-Judicial Methods of
Federal Regulation through the Joint Employment of the Power of Taxation and the Spending Power
Government Contract Provisions as a Means of Establishing Proper Economic Standards, Legal Memorandum on Possibility of
Industrial Relations in Australia, Regulation of
Intrastate Activities Which so Affect Interstate Commerce as to Bring them Under the Commerce Clause, Cases on
Legislative Possibilities of the State Constitutions
Post Office and Post Road Power — Can it be Used as a Means of Federal Industrial Regulation?
State Recovery Legislation in Aid of Federal Recovery Legislation History and Analysis
Tariff Rates to Secure Proper Standards of Wages and Hours, the Possibility of Variation in
Trade Practices and the Anti-Trust Laws
Treaty Making Power of the United States
War Power, Can it be Used as a Means of Federal Regulation of Child Labor?

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THE EVIDENCE STUDIES SERIES

The Evidence Studies were originally undertaken to gather material for pending court cases. After the Schechter decision the project was continued in order to assemble data for use in connection with the studies of the Division of Review. The data are particularly concerned with the nature, size and operations of the industry; and with the relation of the industry to interstate commerce. The industries covered by the Evidence Studies account for more than one-half of the total number of workers under codes. The list of those studies follows:

Automobile Manufacturing Industry
Automotive Parts and Equipment Industry
Baking Industry
Boot and Shoe Manufacturing Industry
Bottled Soft Drink Industry
Builders' Supplies Industry
Canning Industry
Chemical Manufacturing Industry
Cigar Manufacturing Industry
Coat and Suit Industry
Construction Industry
Cotton Garment Industry
Dress Manufacturing Industry
Electrical Contracting Industry
Electrical Manufacturing Industry
Fabricated Metal Products Mfg. and Metal Finishing and Metal Coating Industry
Fishery Industry
Furniture Manufacturing Industry
General Contractors Industry
Graphic Arts Industry
Gray Iron Foundry Industry
Hosiery Industry
Infant's and Children's Wear Industry
Iron and Steel Industry
Leather Industry
Lumber and Timber Products Industry
Mason Contractors Industry
Men's Clothing Industry
Motion Picture Industry
Motor Vehicle Retailing Trade
Needlework Industry of Puerto Rico
Painting and Paperhanging Industry
Photo Engraving Industry
Plumbing Contracting Industry
Retail Lumber Industry
Retail Trade Industry
Retail Tire and Battery Trade Industry
Rubber Manufacturing Industry
Rubber Tire Manufacturing Industry
Shipbuilding Industry
Silk Textile Industry
Structural Clay Products Industry
Throwing Industry
Trucking Industry
Waste Materials Industry
Wholesale and Retail Food Industry
Wholesale Fresh Fruit and Vegetable Industry
Wool Textile Industry

THE STATISTICAL MATERIALS SERIES

This series is supplementary to the Evidence Studies Series. The reports include data on establishments, firms, employment, payrolls, wages, hours, production capacities, shipments, sales, consumption, stocks, prices, material costs, failures, exports and imports. They also include notes on the principal qualifications that should be observed in using the data, the technical methods employed, and the applicability of the material to the study of the industries concerned. The following numbers appear in the series:
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Asphalt Shingle and Roofing Industry
Business Furniture
Candy Manufacturing Industry
Carpet and Rug Industry
Cement Industry
Cleaning and Dyeing Trade
Coffee Industry
Copper and Brass Mill Products Industry
Cotton Textile Industry
Electrical Manufacturing Industry
Fertilizer Industry
Funeral Supply Industry
Glass Container Industry
Ice Manufacturing Industry
Knitted Outerwear Industry
Paint, Varnish, and Lacquer, Mfg. Industry
Plumbing Fixtures Industry
Rayon and Synthetic Yarn Producing Industry
Salt Producing Industry

THE COVERAGE

The original, and approved, plan of the Division of Review contemplated resources sufficient (a) to prepare some 1200 histories of codes and NRA units or agencies, (b) to consolidate and index the NRA files containing some 40,000,000 pieces, (c) to engage in extensive field work, (d) to secure much aid from established statistical agencies of government, (e) to assemble a considerable number of experts in various fields, (f) to conduct approximately 25% more studies than are listed above, and (g) to prepare a comprehensive summary report.

Because of reductions made in personnel and in use of outside experts, limitation of access to field work and research agencies, and lack of jurisdiction over files, the projected plan was necessarily curtailed. The most serious curtailments were the omission of the comprehensive summary report; the dropping of certain studies and the reduction in the coverage of other studies; and the abandonment of the consolidation and indexing of the files. Fortunately, there is reason to hope that the files may yet be cared for under other auspices.

Notwithstanding these limitations, if the files are ultimately consolidated and indexed the exploration of the NRA materials will have been sufficient to make them accessible and highly useful. They constitute the largest and richest single body of information concerning the problems and operations of industry ever assembled in any nation.

L. C. Marshall,
Director, Division of Review.

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